

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NASIM RAHIMI,

Plaintiff,

v.

ACE AMERICAN INSURANCE
COMPANY, ASHLEY HOLDINGS, INC.,
JARON TUNKS, ABC CORP., XYZ CORP.,
and JOHN DOE,

Defendants.

Civil Action No.

1:21-CV-04691-ELR

[On Removal From the State
Court of Gwinnett County,
Georgia, Civil Action No. 21-C-
07445-S5]

NOTICE OF REMOVAL TO FEDERAL COURT

COME NOW Defendants ACE American Insurance Company (“ACE”), Ashley Holdings, Inc. (“Ashley”), and Jaron Tunks (“Tunks”) (collectively, “Defendants”) and pursuant to 28 U.S.C. §§ 1441 and 1446, file this Notice of Removal to Federal Court, showing that they have complied with the procedures for removal and setting forth a short and plain statement that removal in this case is proper, pursuant to 28 U.S.C. §§1332, 1441, and 1446.

1.

The jurisdictional basis for this removal is 28 U.S.C. §1332 because (a) there is complete diversity of citizenship between Plaintiff and Defendants, and (b) the

amount in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

2.

ACE, Ashley, and Tunks are Defendants in a civil action brought in the State Court of Gwinnett County, Georgia styled Nasim Rahimi v. ACE American Insurance Company, Ashley Holdings, Inc., Jaron Tunks, ABC Corp., XYZ Corp., and John Doe, Civil Action File No. 21-C-07445-S5 (hereinafter “the Action”), that was filed on or about October 14, 2021. An Amended Complaint was filed on or about October 18, 2021. According to the service of process records filed by Plaintiff in the Action, Ashley was served on October 15, 2021; ACE was served on October 15, 2021; and Tunks was served at his residence in Illinois on October 28, 2021.

3.

Copies of all process, pleadings, and orders served in the Action are attached hereto as Ex. A, including a copy of any Answer that was filed in the Action.

4.

This lawsuit arises out of an alleged motor vehicle accident that occurred on October 17, 2019 on Pleasant Hill Road in Gwinnett County, Georgia. (Amended Complaint, ¶ 9). The lawsuit asserts claims for negligence, negligence per se, and

negligent hiring/entrustment/supervision/training/retention. (Amended Complaint, ¶¶ 11-19). The lawsuit also asserts claims for punitive damages and attorneys' fees, and that ACE is subject to suit pursuant to Georgia's direct action statutes. (Amended Complaint, ¶¶ 21-24, 29-31).

5.

The controversy between Plaintiff and Defendants is one between citizens of different states: (a) Plaintiff is a citizen of Georgia; (b) Defendant Ashley is a Wisconsin corporation with its principal place of business located at 1 Ashley Way, Arcadia, Wisconsin 54612; (c) Defendant ACE is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania; and (d) Defendant Tunks is a citizen of Illinois. (Amended Complaint, ¶¶ 1, 2, 4).^{1 2}

¹ Defendant Ashley contends that it is an improper party, and that the correct legal entity would be Kingswere Furniture, LLC. Nonetheless, assuming that the pleadings are amended to reflect the correct entity, there would still be diversity of citizenship as neither that entity nor any of its members are citizens or residents of Georgia.

² While the lawsuit alleges that Defendant Tunks is a resident of Georgia (Amended Complaint, ¶ 3), that is inaccurate as he is a resident and citizen of Illinois, and was recently served with process in this lawsuit at his residence at 2815 West Gilbert Ave., Peoria, Illinois 61604.

6.

In addition, Plaintiff seeks to recover general and special damages against Defendants for a sum in excess of \$75,000. While no specific dollar amount is prayed for in the Complaint, Plaintiff claims he has incurred medical expenses in excess of \$90,000 and is still treating. (Amended Complaint, ¶ 28). Plaintiff seeks damages against Defendants for, among other things, pain and suffering, past and future medical expenses, lost wages, and, as noted above, also seeks an award of punitive damages and attorneys' fees. (Amended Complaint, ¶¶ 26-31, and "Wherefore" paragraph of the Complaint).

7.

Accordingly, the amount in controversy exceeds \$75,000 exclusive of interest and costs. Pursuant to Pretka v. Kolter City Plaza II, Inc., 608 F. 3d 744, 770 (11th Cir. 2010), which allows the District Court to "draw on its judicial experience and common sense" in determining if a Complaint makes a plausible claim that satisfies the amount-in-controversy requirement, Defendants respectfully assert that the claimed injuries and damages of Plaintiff satisfies the amount-in-controversy requirement. See also 28 U.S.C. § 1446(c)(2).

8.

This Notice is timely filed pursuant to 28 U.S.C. § 1446(b) and FED. R. CIV. P. 6(a).

9.

There is diversity of citizenship between Plaintiff and Defendants, who are not citizens of the State of Georgia. The amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Accordingly, the United States District Court for the Northern District of Georgia has original jurisdiction over the Action and removal to this Court is proper under 28 U.S.C. § 1441(a).

10.

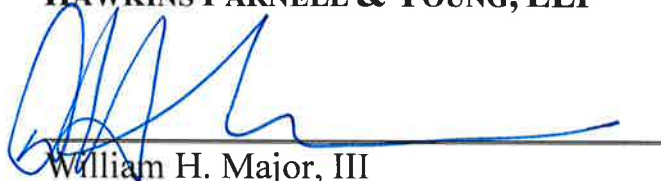
This Notice of Removal to Federal Court is properly filed in the United States District Court for the Northern District of Georgia, Atlanta Division, because it is the district and division embracing the place where the Action is pending. 28 U.S.C. § 1441(A). Written notice of the Notice of Removal to Federal Court is being filed with the Clerk of the State Court of Gwinnett County, and served as required by 28 U.S.C. § 1446(d).

WHEREFORE, having shown that this case is properly removable, Defendants give notice pursuant to 28 U.S.C. § 1446(a) that the Action pending in the State Court of Gwinnett County, Georgia, Civil Action No. 21-C-07445-S5 is

removed to the United States District Court for the Northern District of Georgia, Atlanta Division, and respectfully request that this Court exercise jurisdiction over this case.

Respectfully submitted this 12th day of November, 2021.

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CERTIFICATE OF SERVICE and
CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1C

This is to certify that I have this day, served counsel for all parties in this action with a copy of the foregoing NOTICE OF REMOVAL TO FEDERAL COURT by depositing in the United States Mail, a copy of same in an envelope with adequate postage thereon, addressed as follows:

Michael E. Gumprecht, Esq.
The Gumprecht Law Firm
125 Townpark Drive #300
Kennesaw, GA 30144

I further certify pursuant to Rule 7.1 of the Local Rules for the Northern District of Georgia that this document has been prepared in "Times New Roman" font, 14 point, as required by Local Rule 5.1(C).

This 12th day of November, 2021.

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